REMARKS / DISCUSSION OF ISSUES

Claims 1-29 are pending in the application. Claims 1, 8, 14, 19 and 25 are independent claims.

Unless indicated otherwise, claims are amended for non-statutory reasons: to correct one or more informalities, remove figure label number(s), and/or to replace European-style claim phraseology with American-style claim language.

Rejections Under 35 U.S.C. § 102

Claims 1-29 were rejected under 35 U.S.C. § 102(e) as being unpatentable over *Taylor.* (U.S. Patent 6,209,004). For at least the reasons set forth below, Applicants respectfully submit that this rejection is improper and should be withdrawn.

Initially, Applicants note that the art cited does not qualify as a reference under 35 U.S.C. § 102(e). For at least this reason, this rejection is improper and should be withdrawn.

A proper rejection under 35 U.S.C. § 102(e) requires that all of the claimed elements be found in the applied art. If a single claimed element is not found in the applied art, a prima facie case of obviousness cannot be properly established.

Claim 1 is drawn to a patient evaluation apparatus, and includes, inter alia:

"...*a dynamic generator to create a marked up document* based upon the form data; and

a transmitting module **to combine the marked up document with medical data of a patient and transmitting the combined marked up document** through a transmission channel, **such that a user having a browser is capable of receiving and displaying the combined marked up document.**"

Claims 8, 14, 19 and 25 include similar features.

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In an embodiment described in the file application, a generator 130 performs a dynamic code generating operation, whereby form data is retrieved from configuration module 150, and each HTML/ASP page document may be generated based thereon. Generator 130 may perform data display and data configuration. The data display is the visual representation of the data, i.e., color, size, and screen placement. As is known, HTML is a standard Internet and Intranet marked up page document format, having HTML codes, allowing for easy viewing by users connected to an Internet or Intranet, using a browser for viewing of the HTML page document.

As noted in the filed application, doctors, practices, and hospitals typically define their own individualized patient evaluation standards, e.g., what questions are to be asked. These doctors, practices, and hospitals probably all have their own forms that have been developed over time and for which most of their healthcare workers have become accustomed. Configuration database 155 may include all the relevant information for generator 130 to create HTML/ASP page documents that resemble these individualized forms.

As such, in an embodiment, a browser may be used to view the marked up page document format. Among other benefits, this allows forms to be made that resemble the individualized forms of the physician or other health care provider.

The Office Action asserts that the noted feature of claim 1 (as well as the similar features of claims 8, 14, 19 and 25) is disclosed by Taylor, at column 8, lines 21-22 and 34-37; and in Fig 4, block 2. The portions of Taylor relied upon in this portion of the Office Action describe blocks 2 and 5. Block 2 represents document assembly instructions and the format and content information applicable to all documents of a particular document type. Block 5 is a computer network or other physical mechanism for transferring electronic files. A fair reading of these portions of Taylor do not include *a dynamic generator to create a marked up document* based upon the form data. In particular,

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Applicants respectfully submit that Blocks 2 and 5 do not teach or suggest at least the creation of a <u>marked up document based upon form data</u>.

Accordingly, Applicants respectfully submit that the reference to Taylor does not disclose at least the noted feature of claims 1; or the like features of 8,14,19 and 25. Therefore, Applicants respectfully submit that a prima facie case of anticipation has not been established and the independent claims are patentable over the applied art. Moreover, claim 2-7, 9-13,15-18 and 26-29, which depend from claims 1, 8, 14, 19 and 25, respectively, are also patentable over the applied art. Allowance is earnestly solicited.

Rejections Under 35 U.S.C. § 103

Claims 6 and 18 were rejected under 35 U.S.C. § 103(a) as being obvious over Taylor and Myers, et al. (U.S. Patent Publication Number 2002/0004806). As noted previously, claims 6 and 18 depend from independent claims 1 and 14, which for reasons set forth above are patentable over the applied art. As such, and while in no way conceding the propriety of this rejection, Applicants respectfully submit that this rejection is improper and should be withdrawn.

Conclusion

In view the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

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Application Serial Number 09/879,993
Response to Office Action
Dated January 17, 2006

Respectfully submitted on behalf of:

Phillips Electronics North America Corp.

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by: William S. Francos (Reg. No. 38,456)

Date: June 19, 2006

Volentine, Francos & Whitt, PLLC
Two Meridian Blvd.
Wyomissing, PA 19610
(610) 375-3513 (v)
(610) 375-3277 (f)

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